

REMARKS

I. Introduction

With the cancellation herein without prejudice of claim 30, claims 1 to 27, and 29 are currently pending in the present application. Claims 1, 16, 26, 27, and 29 have been amended. Support for the amendments may be found in the Specification, e.g., at page 6, lines 9 to 14; and page 11, lines 4 to 9.

In view of the following remarks, it is respectfully submitted that all of the presently pending claims are allowable, and reconsideration of the present application is respectfully requested.

II. Rejection of Claims 1 to 25, 27, and 30 Under 35 U.S.C. § 103

Claims 1 to 25, 27, and 30 stand rejected under 35 U.S.C. § 103 as unpatentable over the combination of U.S. Patent Application Publication No. 2003/0208767 (“Williamson et al.”) and U.S. Patent Application Publication No. 2004/0003097 (“Willis et al.”). Claim 30 has been canceled herein without prejudice, thereby rendering moot the present rejection with respect to claim 30. It is respectfully submitted that the combination of Williamson et al. and Willis et al. does not render unpatentable any of the present claims for at least the following reasons.

To reject a claim under 35 U.S.C. § 103(a), the Office bears the initial burden of presenting a *prima facie* case of obviousness. *In re Rijckaert*, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). To establish *prima facie* obviousness, three criteria must be satisfied. First, there must be some suggestion or motivation to modify or combine reference teachings. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). This teaching or suggestion to make the claimed combination must be found in the prior art and not based on the application disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991). As clearly indicated by the Supreme Court, it is “important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the [prior art] elements” in the manner claimed. *See KSR Int’l Co. v. Teleflex, Inc.*, 127 S. Ct. 1727 (2007). In this regard, the Supreme Court further noted that “rejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *Id.*, at 1396. Second, there must be a reasonable expectation of success. *In re Merck & Co., Inc.*, 800 F.2d 1091, 231 U.S.P.Q. 375 (Fed. Cir. 1986). Third, the prior art reference(s) must teach or suggest all of the claim features. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580

(C.C.P.A. 1974). As explained herein, the Final Office Action does not satisfy these requirements as to all of the features of the claims.

Claims 1, 18, and 19 essentially recite, *inter alia*, the following:

... receiving . . . a user profile which identifies preferred media distribution sources . . . searching . . . a plurality of media distribution source types for media content based on the at least one search criteria and the user profile . . . generating, . . . from results of the searching, a schedule including scheduling information regarding the media content; and displaying the schedule to the user.

Thus, claims 1, 18, and 19 provide novel and counter-intuitive features in which, in response to a search request, a schedule is generated including scheduling information regarding media content from a plurality of media distribution source types, which, it is noted, often are scheduled in different manners. For example, movie theatre schedules include gaps as compared to TV program schedules which are, for the most part, continuous. Neither Williamson et al. nor Willis et al., whether considered alone or in combination, disclose or suggest these features including generating a schedule as provided for in the context of claims 1, 18, and 19.

The Final Office Action admits that Williamson et al. do not disclose searching a plurality of media distribution source types for media content based on search criteria and a user profile, and instead refers to Willis et al. as assertedly disclosing searching for content from a plurality of media distribution source types.

However, as explained in Applicants' previous Responses, Willis et al. provide a portal type system in which user preferences are used for filtering articles from different sources. The articles are provided to the user in a portal setting in which the different article categories are presented in different frames. In order to perform the filtering, a content generator generates for each obtained article a new version including searchable metadata. Subsequently, a content based router 130 filters the articles in accordance with user preferences and accordingly displays the articles in the portal. *See* Willis et al., e.g., pars. 0085 – 0096. Willis et al. do not disclose or suggest **generating a schedule** based on the filtered articles. Further, Willis et al. do not disclose providing its portal information **responsive to search criteria**. Instead, obtained articles are sorted based on a set of user preferences. The different articles are determined to be relevant based on different ones of the set of preferences and are provided without regard to particular search criteria.

With respect to the feature of providing a schedule, the Final Office Action appears to rely on Williamson et al. as assertedly disclosing this feature. However, as the

Final Office Action admits and as noted above, a schedule provided by Williamson et al. are not of results of a search of a plurality of media distribution source types. Even if the system of Williamson et al. would be modified based on the features of Willis et al. of providing a portal page including data from multiple distribution sources, such a modified system would not provide the features of generating a schedule from results of searching a plurality of media distribution source types, in which the schedule includes scheduling information regarding the media content from the plurality of media distribution source types, as provided for in claims 1, 18, and 19. Instead, the modified system would at most provide a portal in which obtained articles, one of which may include a television program schedule, are filtered in accordance with user preferences and then provided to the user in portal frames in accordance with the information category to which the obtained articles belong. That is, the modified system may merely include a conventional television program schedule among the portal frames, but would not include a schedule including scheduling information from the plurality of media distribution source types.

The Final Office Action, at pages 6 and 7, states that “the features upon which applicant relies (i.e., schedules include gaps … [and] portal information responsive to search criteria ...) are not recited in the rejected claim(s)” (emphasis in original). However, Applicants do not argue that these are terms of the claims not disclosed in the cited references. Instead, the fact that movie theater “schedules include gaps” is stated merely as an example of significant differences between different distribution source types that have caused those of ordinary skill in the art to fail to recognize the features which are recited in the claims, i.e., generation and display of a composite schedule for the different source types. That is, it had never occurred to anyone that a schedule should be provided with information for different source types, one of the reasons being that it is understood that scheduling concepts vary between source types.

Further, “portal information” is referred to merely with respect to the disclosure of Willis et al. – that is, the portal information of Willis et al. would not suggest a composite schedule as provided for in the present claims. Accordingly, the terms themselves, “schedules include gaps” or “portal information,” are not being relied upon by Applicants as terms of the claims to overcome the present rejections.

Indeed, the applied references do not include any suggestion to further modify the system to provide the features of claims 1, 18, and 19 according to which, in response to a search request, a schedule is generated including scheduling information regarding media content from a plurality of media distribution source types, which, as noted above, often are

scheduled in different manners. Therefore, one of ordinary skill in the art would not arrive at the features of any of claims 1, 18, and 19 based on the combination of Williamson et al. and Willis et al. without an improper hindsight reconstruction based on Applicants' disclosure.

Accordingly, the combination of Williamson et al. and Willis et al. does not render unpatentable any of claims 1, 18, and 19.

Claim 16 includes subject matter analogous to that of claims 1, 18, and 19 and is therefore patentable for at least the same reasons set forth above in support of the patentability of claims 1, 18, and 19.

As for claims 2 to 15, 20, and 23 to 25 which ultimately depend from claim 1 and therefore include all of the features recited in claim 1, it is respectfully submitted that the combination of Williamson et al. and Willis et al. does not render unpatentable these dependent claims for the same reasons set forth above in support of the patentability of claim 1. *In re Fine, supra* (any dependent claim that depends from a non-obvious independent claim is non-obvious).

As further regards claim 23, the claim recites “generating . . . an intermediate results page including a plurality of media content titles . . . wherein the schedule is generated responsive to a selection of one of the titles of the intermediate results page and includes scheduling information exclusively regarding the selected title.” None of the cited sections (or any other section) of Williamson et al. or Willis et al. disclose or suggest a schedule including scheduling information exclusively regarding a selected title. Further, claim 23 recites that the schedule includes scheduling information pertaining to multiple ones of the plurality of media distribution source types. The cited references do not disclose scheduling information regarding a selected title that pertains to multiple media distribution source types. For these additional reasons, the combination of Williamson et al. and Willis et al. does not disclose or suggest all of the features of claim 23, and therefore does not render unpatentable claim 23 for these additional reasons.

The Office Action attempts to show how the cited references disclose these features of claim 23 by taking features of the references presented in various contexts and combining them in the very specific sequence provided for in claim 23. This is akin to a painter to dumping different colored paints into a pot, without more, and hoping to cause a beautiful painting to miraculously form therefrom. Claim 23 provides a very specific sequence for processing a search request, which includes a two-step results presentation. The cited references do not disclose or suggest such a method of processing a search request. Indeed, the relied upon features of Willis et al. are not provided in response to a search

request, and Williamson et al. merely suggests providing a schedule, without an intermediate results page.

As further regards claim 25, the claim recites that “the user profile identifies, for each of a plurality of source types, respective preferred media distribution sources.” The Final Office Action refers to pars. 0084 and 0102 of Williamson et al. as assertedly disclosing this feature. As previously stated, the cited sections of Williamson et al. are unrelated to preferred media distribution sources. Indeed, the Response to Arguments section of the Final Office Action at pages 12 to 13 does not address the feature of identifying *respective preferred* media distribution sources for each of a plurality of source types. Moreover, the Final Office Action apparently intends to refer to currently broadcast and upcoming programs as disclosing a plurality of source types. However, the cited sections of Williamson et al. do not disclose identification of *respective* preferred distribution sources for the currently broadcast programs and upcoming programs. For this additional reason, the combination of Williamson et al. and Willis et al. does not disclose or suggest all of the features of claim 25, and therefore does not render unpatentable claim 25 for this additional reason.

As for claim 17, which depends from claim 16 and therefore includes all of the features recited in claim 16, it is respectfully submitted that the combination of Williamson et al. and Willis et al. does not render unpatentable this dependent claim for the same reasons set forth above in support of the patentability of claim 16. *Id.*

As for claim 21, which depends from claim 18 and therefore includes all of the features recited in claim 18, it is respectfully submitted that the combination of Williamson et al. and Willis et al. does not render unpatentable this dependent claim for the same reasons set forth above in support of the patentability of claim 18. *Id.*

As for claim 22, which depends from claim 19 and therefore includes all of the features recited in claim 19, it is respectfully submitted that the combination of Williamson et al. and Willis et al. does not render unpatentable this dependent claim for the same reasons set forth above in support of the patentability of claim 19. *Id.*

Claim 27 relates to a computer-implemented method for searching for media content and recites, *inter alia*, the following:

. . . responsive to a request for media content suggestions,
periodically: searching by a processor for media content of a
plurality of media distribution source types, the searching being in
accordance with a user viewing history.

The Final Office Action refers to par. 0084 of Williamson et al. as assertedly disclosing a viewing history. However, the cited section refers to categorization of a user’s

reserved programs and is unrelated to a viewing history. Indeed, the cited section merely seeks to aid a user in locating programs based on categories. Thus, Williamson et al. do not disclose or suggest a user viewing history, as provided for in the context of claim 27.

Accordingly, the combination of Williamson et al. and Willis et al. does not disclose or suggest all of the features of claim 27, so that the combination of Williamson et al. and Willis et al. does not render unpatentable claim 27.

Withdrawal of this obviousness rejection is therefore respectfully requested.

III. Rejection of Claim 26 Under 35 U.S.C. § 103

Claim 26 stands rejected under 35 U.S.C. § 103 as unpatentable over the combination of Williamson et al., Willis et al., and U.S. Patent Application Publication No. 2002/0154157 (“Sherr et al.”). It is respectfully submitted that the combination of Williamson et al., Willis et al., and Sherr et al. does not render unpatentable the present claim for at least the following reasons.

Claim 26 relates to a computer-implemented method for searching for media content and recites, *inter alia*, the following:

. . . generating, . . . from results of the searching, a results page including: a first section having generic information of the results that applies to all of the media distribution source types from which the results were obtained and not including information that is specific to any one of the media distribution source types; and for each of the media distribution source types from which the results were obtained, a respective second section having information specific to the respective media distribution source type, including all of the results obtained from the respective media distribution source type.

The Final Office Action refers to sections 820, 825, 830, 835, 840, and 850 of figure 8 of Willis et al. as assertedly disclosing the recited first section. However, the referenced sections are discrete sections, each one including information specific to its respective source. The combination of the sections thus does not include information generic to all of the media distribution source types and does include information specific to each separate media distribution source type. Thus, the referenced sections, whether viewed alone or in combination, do not disclose a section having generic information that applies to all of the media distribution source types from which the results were obtained and not including information that is specific to any one of the media distribution source types, as provided for in the context of claim 26.

Indeed, the Final Office Action at page 46 admits that “Williamson in view of Willis does not explicitly teach the limitation: ‘a first [sic] section having generic information of the results that applies to all of the media distribution source types from which the results are obtained and not including information that is specific to any one of the media distribution source types.’”

The Final Office Action refers to figure 9 and par. 94 of Sherr et al. as assertedly disclosing the recited first section. However, Sherr et al. merely indicate a page containing focused information about a single content item (movie) from a single media distribution source. *See* Sherr et al., par. 92. Further, Figure 9 of Sherr et al. contains additional information specific to the single content item from the single media distribution source. *See* Sherr et al., par. 93. Thus, the referenced sections, whether viewed alone or in combination, do not disclose a section having generic information that applies to all of the media distribution source types from which the results were obtained and not including information that is specific to any one of the media distribution source types, as provided for in the context of claim 26.

Further, the Final Office Action refers to section 810 of figure 8 of Willis et al. as assertedly disclosing the recited second section. However, Applicants fail to understand how the cited section is considered to constitute a second section, for each media distribution source type, including all the results from the respective media distribution source type. Instead, Willis et al. merely indicate a single central location for a highest ranking article, but nowhere do Willis et al. disclose providing all the results from each respective media distribution source type in a second section for each media distribution source type. Thus, Willis et al. do not disclose, or suggest, for each of the media distribution source types from which the results were obtained, a respective second section having all of the results obtained from the respective media distribution source type, as provided for in the context of claim 26.

Indeed, it is respectfully submitted that the combination of Williamson et al., Willis et al., and Sherr et al. does not disclose or suggest these features, so that the combination of Williamson et al., Willis et al., and Sherr et al. does not render unpatentable claim 26.

Withdrawal of this obviousness rejection is therefore respectfully requested.

IV. Rejection of Claim 29 Under 35 U.S.C. § 103

Claim 29 stands rejected under 35 U.S.C. § 103 as unpatentable over the combination of Williamson et al., Willis et al., and U.S. Patent Application Publication No. 2002/0078382 (“Sheikh”). It is respectfully submitted that the combination of Williamson et al., Willis et al., and Sheikh does not render unpatentable claim 29 for at least the following reasons.

Claim 29 includes subject matter analogous to that of claim 1. Claim 29 is therefore allowable for at least essentially the same reasons as claim 1, since Sheikh does not correct the critical deficiencies of the combination of Williamson et al. and Willis et al. noted above in support of the patentability of claim 1.

Furthermore, claim 29 relates to a method for searching for media content and recites, *inter alia*, the following:

. . . if the searching [based on the at least one search criteria and the user profile including based on the identification of the preferred media distribution sources of the user profile] returns results:

generating, . . . from the results of the searching, a schedule including scheduling information regarding the media content of the returned results; and

*displaying the schedule to the user; and
if the searching does not return any results:*

periodically searching . . . the plurality of media distribution source types for media content, the periodic searching being unconstrained by at least one of the at least one search criteria, the user profile, and the identification of the preferred media distribution sources of the user profile . . .

Thus, claim 29 provides for repeating a search using different criteria if the search initially does not return results. The Final Office Action refers to par. 0053 of Sheikh as assertedly disclosing the feature of “if the searching does not return any results: periodically searching the plurality of . . . types for media content, the periodic searching being unconstrained . . .” However, Sheikh merely indicates that, if no result is returned, a sensor is re-executed. Thus, the combination of Williamson et al., Willis et al., and Sheikh does not disclose or suggest all of the features of claim 29 for this additional reason, so that the combination of Williamson et al., Willis et al., and Sheikh does not render unpatentable claim 29 for this additional reason.

Withdrawal of this obviousness rejection is therefore respectfully requested.

V. Conclusion

In light of the foregoing, it is respectfully submitted that all of the presently pending claims are in condition for allowance. Prompt reconsideration and allowance of the present application are therefore earnestly solicited.

Respectfully submitted,

Dated: May 15, 2009

By: /Aaron Grunberger/
Aaron Grunberger
Reg. No. 59,210

KENYON & KENYON LLP
One Broadway
New York, New York 10004
(212) 425-7200

CUSTOMER NO 26646